

QUESTIONS AND ANSWERS

EXPANSION HAP BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Q. What is "Expanded HAP"?

A. Congress created in the HAP program in 1966 (see Section 3374, Title 42 United States Code) to financially compensate eligible military and civilian Federal employee homeowners when the real estate market was adversely affected directly related to the closure or reduction-in-scope of operations due to Base Realignment and Closure (BRAC). The Army Corps of Engineers runs it on behalf of all the military branches. The American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, expanded the HAP to provide assistance to:

- Wounded members of the Armed Forces (30% or greater disability) and wounded Department of Defense (DoD) and Coast Guard civilian homeowners reassigned in furtherance of medical treatment or rehabilitation or due to medical retirement in connection with their disability;
- Surviving spouses of the fallen
- Base Realignment and Closure (BRAC) 2005 impacted homeowners relocating during the mortgage crisis; and
- Service member homeowners undergoing Permanent Change of Station (PCS) moves during the mortgage crisis.

Q. How do I apply?

A. Visit the HAP web site: <http://hap.usace.army.mil/> and download the application package. Complete the application and mail to the U.S. Army Corps of Engineer District responsible for the area in which your home is located.

Q. Will the application packages be handled in a first come first served manner?

A. Applications will be processed as quickly as possible according to eligibility in the following order:

1. Wounded, Injured, and Ill. Within this category, applications will generally be processed in chronological order of the wound, injury, or illness.
2. Surviving Spouses. Within this category, applications will generally be processed in chronological order of the date of death of the member or employee.
3. BRAC 2005 Members and Civilian Employees. Within this category, applications will generally be processed in chronological order of the date of job elimination.
4. Permanently Reassigned Members of the Armed Forces. Within this category, applications will generally be processed beginning with the earliest report-not-later-than date of PCS orders.

Q. If I am eligible, what should I do after I mail in my completed application?

A. Each individual's situation is unique. Contact the CoE District office where your home is located for assistance.

Q. What rights do I have if I am not satisfied with decisions made regarding Expanded HAP?

A. You have the right to appeal any decision denying benefits or contesting the amount of benefits allowed. No particular format is required. Simply submit a written statement of your objections to the district office. The appeal will be reviewed at the district level. If favorable action cannot be taken, your appeal will be submitted to higher headquarters. If a favorable decision cannot be made at this level, a final decision will be made by the Deputy Under Secretary of Defense (Installations and Environment).

ELIGIBILITY

Q: Who is eligible for Expanded HAP assistance?

A. ARRA Expanded HAP applies to certain:

1. Wounded, Injured, or Ill service members and DoD (including Coast Guard) civilian employees
2. The surviving spouse of a member of the Armed Forces or of a civilian employee whose spouse dies as the result of a wound, injury, or illness incurred in the line of duty
3. Base Realignment and Closure 2005 impacted service members and civilians
4. Permanent Change of Station (PCS) servicemembers

Q. What are the specific eligibility requirements for Wounded, Injured, or Ill?

A. *For members of the Armed Forces* – Those who receive a disability rating of 30% or more for an unfitting condition (using the Department of Veterans Affairs Schedule for Ratings Disabilities), or who are eligible for Service member's Group Life Insurance Traumatic Injury Protection Program, or whose treating physician (in a grade of at least captain in the Navy or Coast Guard or colonel in Army or Air Force) certifies that the member is likely, by a preponderance of the evidence, to receive a disability rating of 30% or more for an unfitting condition (using the Department of Veterans Affairs Schedule for Ratings Disabilities) for wounds, injuries, or illness incurred in the line of duty while deployed, on or after September 11, 2001.

For Civilian Employees of DoD (including employees of non-appropriated fund instrumentalities) or the United States Coast Guard who suffer a wound, injury, or illness (not due to own misconduct), on or after September 11, 2001, in the performance of duties while forward deployed in support of the Armed Forces, whose treating physician provides written documentation that the member, by a preponderance of the evidence, meets the criteria for a disability rating of 30% or more (this documentation will be certified by a physician in the grade of at least captain in the Navy or Coast Guard or colonel in Army or Air Force).

For both military and civilian applicants there must be a need to relocate from the primary residence in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the wound, injury, or illness, and a need to market the primary residence for sale due to the wound, injury or illness. (For example, the need to be closer to a hospital or a family member caregiver or the need to find work more accommodating to the disability.)

Q. What are the specific eligibility requirements for a Surviving Spouse?

A. The surviving spouse of a Service member or of a civilian employee whose spouse dies as the result of a wound, injury, or illness incurred in the line of duty while deployed (or forward deployed for civilian employees) on or after September 11, 2001, and who relocate from the member's or civilian employee's primary residence within two years of the death of spouse.

Q. What are the specific eligibility requirements for Base Realignment and Closure (BRAC) 2005?

A. BRAC 2005 applies to members of the Armed Forces and civilian employees of the Department of Defense and the United States Coast Guard (not including temporary employees or contractors) and employees of non-appropriated fund instrumentalities who: -- purchased their primary residence before May 13, 2005 (the date of the BRAC 2005 announcement). -- were assigned on May 13, 2005, to an installation or unit identified for closure or realignment under the 2005 round of the BRAC Act of 1990: -- whose position is eliminated or transferred because of the realignment or closure and accepts employment, or is required to relocate because of transfer, beyond the normal commuting distance from the primary residence (50 miles) -- suffered at least a 10% home value loss between July 1, 2006 and date of application for Expanded HAP benefits for the

county/parish/city in which the primary residence is located, and a decline of at least a 10% personal home value loss from the date of purchase to date of sale.

Q. What are the specific eligibility requirements for Permanent Change of Station (PCS)?

A. PCS refers to the assignment or transfer of a member to a different permanent duty station (PDS), to include relocation to place of retirement, under a competent authorization/order that does not specify the duty as temporary, provide for further assignment to a new PDS, or direct the military service member return to the old PDS. To qualify, a service member must have:

- owned home prior to July 1, 2006.
- have PCS orders dated between February 1, 2006 and September 30, 2012 (subject to availability of funds),
- be reassigned to a new duty station or home port outside a 50-mile radius of the member's former duty station or home port.
- suffered at least a 10% home value loss between July 1, 2006 and date of application for Expanded HAP benefits for the county/parish/city in which the primary residence is located, and a decline of at least a 10% personal home value loss from the date of purchase to date of sale./li>

For initial implementation, Permanently Reassigned Members of the Armed Forces must have received qualifying orders to relocate dated between February 1, 2006, and December 31, 2009. The orders must specify a report-no-later-than date of on or before February 28, 2010. These dates may be extended to September 30, 2012 at the discretion of the DUSD(I&E) based on availability of funds.

Q. Would a federal civilian employee who chooses to PCS for a higher paying job qualify for the program?

A. No. Simply moving for a better job would not meet the current qualifications of the Expanded HAP. As a federal civilian employee, you would only qualify for the Expanded HAP if you were assigned to a BRAC organization or installation and your position was moving or being eliminated.

Q. Will individuals assigned to an installation after the announced BRAC action be eligible for HAP benefits if they purchased their homes after the closure/realignment announcement?

A. On May 13, 2005, BRAC 2005 Members and Civilian Employees must have been assigned to an installation or unit identified for closure or realignment under the 2005 round of the Base Realignment and Closure Act of 1990. Applicant must also have been the owner/occupant at the time of the announcement date. However, military members may be eligible if they qualify for the PCS benefit and purchased the home prior to July 1, 2006. Contact the CoE district where the home is located for further information.

Q. Is a service member or federal employee who is not attached to the installation eligible for HAP benefits?

A. No. Any service member or federal employee (including Non-Appropriated Fund employees) must be assigned to or employed in connection with an installation at the time of public announcement (May 13, 2005) of the closure action to be eligible.

Q. If a BRAC 2005 impacted civilian is RIF'd with no job offer, can he/she qualify for HAP benefits?

A. Yes under certain circumstances. Contact the CoE district where the home is located for further information.

Q. Is there a cap on the benefits the Expanded HAP will pay per applicant?

A. The Primary Fair Market Value (PFMV) may not exceed an amount equal to the 2009 Fannie Mae/Freddie Mac conforming loan limits (as amended by the ARRA of 2009). These conforming loan limits range from \$417,000 to \$729,500. These apply for the duration of the Expanded HAP and are established for each city/county/parish as appropriate.

Q. If I retire do I qualify for HAP benefits?

A. If you are a BRAC 2005 eligible applicant you would qualify only if your position is moved or eliminated. Permanently Reassigned Members of the Armed Forces (PCS) who are reassigned or who otherwise relocate for the following reasons are NOT eligible for Expanded HAP benefits:

1. Members who retire prior to reaching their mandatory retirement date,
2. Members who are a new accession into the Armed Forces or who are otherwise entering active duty.
3. Members who are voluntarily separated or discharged,
4. Members whose separation or discharge is characterized as less than honorable,
5. Members who request and receive voluntary release from active duty (REFRAD),
6. Members who are REFRAD for misconduct or poor performance.

Q. If a person owns a farm (say 60 acres) and maintains a home on the farm, how much of the property qualifies under the HAP?

A. Only the dwelling and the portion of the land that would reasonably constitute a residential property within the area.

BENEFITS

Q. What is the basis for HAP benefits?

A. HAP benefits are based on the prior fair market value (PFMV) of the applicant's home. For Expanded HAP, the PFMV is the home's purchase price (verified by Form HUD-1 settlement sheet from your purchase) and the eventual sales price when you sell the home.

Q. How long before I will receive my benefits?

A. The normal processing time is between 60 and 90 days provided all required documents are submitted.

Q: Will the Government reimburse me for mortgage interest?

A. The Government will reimburse you for mortgage interest (not principal payments), taxes, and hazard insurance premiums that have been paid from the date the CoE District office received your application, or the date of vacation of the premises, whichever is later.

Q. If I have to sell my home at a loss and I qualify for the Expanded HAP program, will I be able to recoup 100 percent of my loss?

A. No, but it can substantially offset your losses. Each individual's situation is unique. Contact the CoE District office where your home is located for assistance.

Q. Will my Expanded HAP benefits be taxable?

A. Yes. Under current law, Expanded HAP benefits, including any payment of closing costs, are taxable and subject to withholding.

1. Expanded HAP payments to, or on behalf of, all civilian applicants are considered income and are taxable as wages.
2. Payments to, or on behalf of, all members of the Armed Forces are considered income and are taxable. Payments to military members are not subject to social security or Medicare taxes.

Tax documents will be certified by the HQUSACE Finance Center, and distributed to applicants and the Internal Revenue Service (IRS) on an annual basis.

Q. If I am foreclosed upon, what will the government pay or not pay?

A. The government will pay all legally enforceable liabilities; but will not make up past payments. If you deed the property back to the mortgage company in lieu of foreclosure, your application will be processed as a private sale. The Government will not pay outstanding judgment liens, encumbrances of a personal nature, or junior mortgages acquired after acquiring the property unless the junior mortgage was obtained at the same time as the original mortgage or used to improve the property.

Q. Who pays the closing costs when the government purchases a home under the Expanded HAP?

A. The Government will pay for title services to close the transaction, and any other allowable closing costs.

Q. For VA loans, will the Government retire or assume my mortgage so eligibility can be restored?

A. The Government will either liquidate or assume VA mortgages on residential properties. An applicant must request restoration of his/her eligibility from the V A.

Q. In a private sale, can I use a realtor to sell my home?

A. Yes. Using a realtor may increase your chances to find a buyer. The Expanded HAP will pay all normal sellers' closing costs, including realtor fees.

Q. A real estate agent expects a commission. Will the Government pay commissions when the Government purchases an applicant's home?

A. No. Applicants should ensure that the listing agreement for their property contains the following statement: "In the event the herein listed property is sold to the United States of America, or an agency thereof, the listing broker will not be entitled to any commission or other consideration as a result of such sale." If the listing agreement does not contain the above statement and any commission is due, it is the applicant's responsibility to pay the commission.

Q. Will I have to bring any money to closing?

A. If you occupy your home until or nearly until the closing date and have not made payment for the month, you will be responsible for interest due for the previous month plus year-to-date real estate taxes.

Q. At what point should I market my home?

A. As soon as you know you will be relocating. Two eligibility requirements for the program are 1) the applicant must have made a reasonable effort to sell the home, and 2) relocated beyond a reasonable commuting distance. However, in some instances, an applicant may be eligible without relocating, provided they lost their job due to a base closure or realignment and demonstrate a financial hardship.

Q. What constitutes a reasonable effort to sell my home?

A. Your primary residence must be listed, actively marketed, and available for purchase for a minimum of 120 days. With regard to marketing, you must demonstrate that the asking price was within the current market value of the home as determined by the CoE automated value model (AVM) for no less than 30 days. It is your responsibility to explain marketing efforts by detailing how the asking price was gradually reduced until it reached the true current fair market value (i.e., maintaining a log containing date and asking price recorded over period of time indicating number of visits by prospective buyers and offers to purchase). If you are unable to sell the primary residence, the CoE will determine whether efforts to sell were reasonable.

Q. Will local appraisers have input into appraised values?

A. Home appraisals for Expanded HAP are prepared by an independent contract Automated Valuation Model company. Local appraisers may have input if the applicant chooses to appeal the decision for eligibility and wishes to purchase an appraisal.

Q. If I rent my house before I sell it, will it impact HAP benefits?

A. No. Rental income is not deducted from benefit payments.

Q. Is there any information I should include in the lease regarding the Expanded HAP?

A. Make certain the lease agreement contains the following clause: "If the leased premises are approved for purchase by the United States of America under the Homeowners Assistance Program, pursuant to P.L. 89-754 and P.L. 111-5, the Lessor shall have the right to terminate this lease by providing to the Lessee either a 30 or 60-day written notice to vacate the premises."

Q. I had a contract to purchase my home prior to July 1, 2006, but closed after that date, do I qualify?

A. If you are a Military PCS eligible applicant and were under contract to purchase prior to 1 July 2006 and closed after that date, you would qualify. For applicants eligible as Wounded, Injured or Ill and Surviving Spouses the requirement to purchase the primary residence prior to July 1, 2006 does not apply.

CONVENTIONAL HAP

GENERAL QUESTIONS

Q. What is "Conventional HAP"

A. Congress authorized the HAP program in the Demonstration Cities and Metropolitan Act of 1966. The HAP is a special relief program available to eligible military and civilian employee homeowners. When a program is approved, it provides some financial assistance to these homeowners when they are not able to sell their homes under reasonable terms and conditions because an announced closure or reduction in scope of operations at a military installation so adversely affects the real estate market. The Army Corps of Engineers runs it on behalf of all the military branches.

Q. How do I apply?

A. Visit the HAP web site: <http://hap.usace.army.mil/> and download the application package. Complete the application and mail to the U.S. Army Corps of Engineer District responsible for the area in which your home is located.

Q. If I am eligible, what should I do after I mail in my completed application?

A. Each individual's situation is unique. Contact the CoE District responsible for the area in which your home is located.

Q. What rights do I have if I am not satisfied with decisions made regarding the Conventional HAP?

A. You have the right to appeal any decision denying benefits or contesting the amount of benefits allowed. No particular format is required. Simply submit a written statement of your objections to the district office. The appeal will be reviewed at the district level. If favorable action cannot be taken, your appeal will be submitted to higher headquarters. If a favorable decision cannot be made at this level, a final decision will be made by the Deputy Assistant Secretary of the Army.

ELIGIBILITY

Q. Who is eligible for Conventional HAP assistance?

A. Conventional HAP applies to certain:

1. Active duty service members and federal civilian employees assigned at or near the affected installation.
2. Owner-occupant and assigned at or near the installation on the announcement date – military personnel who normally rotate back to the installation are also eligible.

3. A NAFI employee at a facility operated in conjunction with the installation.
4. A civilian or NAFI employee who is a U.S. citizen serving overseas at the time of the announcement, who is entitled to reemployment rights at the affected installation.

Q. What are the specific eligibility requirements for Conventional HAP assistance?

A. An applicant must meet the requirements set forth below to be eligible for benefits under an approved HAP:

- *Type of Employment of Service.* The applicant must be a member of the Armed Forces; a Federal civilian employee at, or a NAFI employee, who is an American citizen, at or in conjunction with, the affected installation. Temporary employees serving under a time limitation, including reservists serving less than 180-consecutive day tours (10 U.S.C. Section 101 (d)(6)(a), and private contractors and employees of private contractors are not included.

- *Place of Employment.* The applicant must have been:

- a member of the Armed Forces assigned at or near the installation;
- a Federal civilian employee at a facility operated at, near, or in conjunction with the affected installation;
- a NAFI employee at a facility operated in conjunction with the installation, or
- a civilian or NAFI employee who is a U.S. citizen serving overseas at the time of the announcement, who is entitled to reemployment rights at the affected installation.

- *Time of Employment.* The applicant must have been:

- assigned to, or employed at, near, or in conjunction with the installation at the time of the announcement;
- transferred or terminated as a result of a reduction-in-force, within six months prior to the public announcement;
- transferred from the installation or activity on an overseas tour within three years prior to the public announcement of the closure action;
- a member of the Armed Forces transferred from the installation within four years prior to the public announcement who, because of his/her military specialty and assignment planning, anticipated repeated assignments to the installation, or
- serving overseas as a Federal employee, with existing reemployment rights to the affected installation at the time of the announcement.

- *Owner/Occupant.* The applicant must have owned and occupied the residence on the date of announcement; and

- Suffered at least a 5% loss of value in community and 5% home value loss.

Q. Would a Federal civilian employee who chooses to PCS for a higher paying job qualify for the program?

A. No. simply moving for a better job would not meet the qualifications of the HAP.

Q. If I retire do I qualify for HAP benefits?

A. Yes.

Q. If a person owns a farm (say 60 acres) and maintains a home on the arm, how much of the property qualifies under the HAP?

A. Only the dwelling and the portion of the land that would reasonably constitute a residential property within the area.

Q. My non-military spouse is the sole owner of the home, am I eligible for HAP benefits if I receive PCS orders?

A. Spousal ownership is allowed where either the applicant or a spouse is the fee simple owner of the property. Applicant must have been married to spouse at the time of the announcement. Where the applicant has an ownership interest with someone other than a spouse, the remaining owners must deed their interest to the applicant prior to Government acquisition. Where the applicant has an ownership interest with someone other than a spouse, private sale benefits will be paid in accordance with the amount of interest the applicant has in the property.

Q. Does the owner of a mobile home or a condominium qualify for HAP benefits?

A. Individual units in condominiums or cooperatives qualify. Mobile homes will qualify, if mobile home is affixed to the land in accordance with local and state laws and regulations, and the underlying realty is held in either fee simple, long term lease (27.5 years or longer) or contract to purchase.

BENEFITS

Q. What is the basis for HAP benefits?

A. HAP benefits are based on the prior fair market value (PFMV) of the applicant's home.

Q. How long before I will receive my benefits?

A. The normal processing time is between 60 and 90 days provided all required documents are submitted.

Q. Will the Government reimburse me for mortgage interest?

A. The Government will reimburse you for mortgage interest (not principal payments), taxes, and hazard insurance premiums that have been paid from the date the CoE District office received your application, or the date of vacation of the premises, whichever is later.

Q. Will my HAP benefits be taxable?

A. Yes. All payments above 95% of the PFMV are taxable.

Q. If I am foreclosed upon, what will the Government pay or not pay?

A. The Government will pay all legally enforceable liabilities; but will not make up past payments. If you deed the property back to the mortgage company in lieu of foreclosure, your application will be processed as a private sale. The Government will not pay outstanding judgment liens, encumbrances of a personal nature, or junior mortgages acquired after acquiring the property unless the junior mortgage was obtained at the same time as the original mortgage or used to improve the property.

Q. In a private sale, can I use a realtor to sell my home?

A. Yes. Using a realtor may increase your chances to find a buyer.

Q. A real estate agent expects a commission. Will the Government pay commissions when the Government purchases an applicant's home?

A. No. Applicants should ensure that the listing agreement for their property contains the following statement: "In the event the herein listed property is sold to the United States of America, or an agency thereof, the listing broker will not be entitled to any commission or other consideration as a result of such sale." If the listing agreement does not contain the above statement and any commission is due, it is the applicant's responsibility to pay the commission.

Q. Will I have to bring any money to closing?

A. If you occupy your home until or nearly until the closing date and have not made payment for the month, you will be responsible for interest due for the previous month plus year-to-date real estate taxes.

Q. At what point should I market my home?

A. As soon as you know you will be relocating.

Q. What constitutes a reasonable effort for the sale of my home?

A. A visible, conscientious effort on behalf of the applicant such as listing the property with a real estate agent, advertising the property in a newspaper, adjusting the asking price to actively search for the actual current fair market value, etc.

Q. If I rent my home before I sell it, will it impact HAP benefits?

A. No. Rental income is not deducted from benefit payments.